



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815
(916) 323-2514 • (916) 324-0908 FAX • WWW.CALEPA.CA.GOV

LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6174 9248

December 21, 2007

Mr. Gale Filter
Deputy Director of Enforcement and Emergency Response
Department of Toxic Substances Control
1001 "I" Street
Sacramento, California 95814-2828

Dear Mr. Filter:

The California Environmental Protection Agency (Cal/EPA), Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of Trinity County Certified Unified Program Agency (CUPA) on October 31 and November 1, 2007. The evaluation was comprised of an in-office program review and field oversight inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Trinity County CUPA's program performance is unsatisfactory with improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Cal/EPA Unified Program every 90 days. The first Deficiency Progress Report is due on March 20, 2008.

Cal/EPA also noted during this evaluation that Trinity County CUPA has worked to bring about a number of local program innovations, including their extensive outreach and compliance assistance to the regulated business community. In addition, the CUPA remains diligent in establishing a relationship with the citizens of Trinity County. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Mr. Gale Filter
December 21, 2007
Page 2

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc/Sent via Email:

Mr. Paul Kewin
Supervising Hazardous Substances Scientist
Trinity County CUPA
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Ms. Barbara Heinrich
Senior Hazardous Substances Scientist
Trinity County CUPA
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Ms. Patti Barni
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Ms. Yvonne Sanchez
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630-4700

Mr. Gale Filter
December 21, 2007
Page 3

cc/Sent via Email:

Ms. Marcele Christofferson
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Francis Mateo
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Frederick Thomas
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Mr. Kevin Graves
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Ms. Terry Brazell
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Charles McLaughlin
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

Ms. Maria Soria
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

Mr. Ben Ho
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Brian Abeel
Governor's Office of Emergency Services
P.O. Box 419047
Rancho Cordova, California 95741-9047



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Enclosure



LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815
(916) 323-2514 • (916) 324-0908 FAX • WWW.CALEPA.CA.GOV

ARNOLD SCHWARZENEGGER
GOVERNOR

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: TRINITY COUNTY CUPA

Evaluation Date: October 31 and November 1, 2007

EVALUATION TEAM

Cal/EPA: Jennifer Lorenzo
SWRCB: Marcele Christofferson
DTSC: Frederick Thomas
OSFM: Francis Mateo

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Jennifer Lorenzo at (916) 327-9560.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	The CUPA is not collecting enough fees from the regulated businesses to cover their expenses. For example, based on their fee accountability, the CUPA had a deficit of approximately \$19,000 in fiscal year (FY) 05/06 and \$6,000 in FY 06/07. HSC, 25404.8 (a) CCR, Title 27, Section 15241 (c) [Cal/EPA]	The CUPA is in the process of reviewing their overall program expenses and fees to ensure that their total budget covers their expenses to achieve a stable program. By December 3, 2007, the CUPA will work with Cal/EPA to develop a FY 07/08 single fee schedule.
2	The CUPA's FY 05/06 and FY 06/07 Self-Audit Reports were missing a required element. The reports were missing the narrative summary of the effectiveness of activities on permitting. CCR, Title 27, Section 15280 (c)(2)(A) [Cal/EPA]	By October 15, 2008, the CUPA will submit their FY 07/08 Self-Audit Report that contains all the required elements.
3	The CUPA does not have a mechanism to receive comments or feedback from the public or regulated business community, such as a customer service survey form. CCR, Title 27, Section 15180 (e)(1)(A) [Cal/EPA]	By March 20, 2008, the CUPA will develop a survey or questionnaire to obtain feedback or comments from the public and regulated facilities. The survey or questionnaire should be readily available at the CUPA's office, mailed to the regulated businesses, provided to the regulated businesses at the conclusion of each visitation, outreach or inspection, and/or, if

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

		possible, be readily available at Trinity County Environmental Health's office.
4	<p>The CUPA is not fully tracking and reporting violations information and enforcement actions taken on their Annual Enforcement Summary Reports.</p> <p>CCR, Title 27, Section 15290 (a)(3) [Cal/EPA]</p>	<p>By September 30, 2008, the CUPA will ensure that the violations and enforcement data on the Annual Enforcement Summary Report 4 will be complete and as accurate as possible.</p>
5	<p>The CUPA is not inspecting each business plan facility at least once every three years. The Annual Inspection Summary Reports indicate that no business plan facility was inspected in FY 05/06 and FY 06/07. However, the CUPA has made progress; they inspected at least 14% business plan facilities to date for FY 07/08.</p> <p>HSC, Chap. 6.95, Section 25508 (b) [Cal/EPA]</p>	<p>On an annual basis, the CUPA will inspect approximately a third of its business plan facilities.</p> <p>Beginning March 20, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.</p>
6	<p>The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements, to annually submit their hazardous material inventory or certification statement of no change.</p> <p>HSC, Chapter 6.95, Section 25503.3 (c) CCR, Title 19, Section 2729.5(a) [OSFM]</p>	<p>By March 20, 2008, the CUPA will develop a strategy and begin implementation of a plan to ensure all regulated businesses annually submit their hazardous material inventory or certification statement.</p>
7	<p>The CUPA is not inspecting each facility that is subject to the California Accidental Release Prevention (CalARP) program at least once every three years. The Annual Inspection Summary Reports indicate that no CalARP facility was inspected in FY 05/06 and FY 06/07. In addition, the CUPA has inspected no CalARP facility to date for FY 07/08.</p> <p>HSC, Chapter 6.95, Section 25537 (a) CCR, Title 27, Section 15200 (a)(3)(A) CCR, Title 19, Section 2775.3 [Cal/EPA]</p>	<p>By December 31, 2007, the CUPA will develop a strategy and begin implementation of a plan to ensure adherence to the triennial inspection frequency requirement.</p> <p>Beginning March 20, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.</p>
8	<p>The CUPA has not completed an annual CalARP performance audit.</p> <p>CCR, Title 19, Section 2780.5 [Cal/EPA]</p>	<p>By July 1, 2008, the CUPA will complete the FY 07/08 CalARP performance audit. Annually thereafter, the CUPA may incorporate the CalARP performance audit with the Unified Program FY 07/08 Self-Audit Report.</p>
9	<p>The CUPA has not established a procedure necessary to implement a dispute resolution between the CUPA and stationary sources.</p> <p>CCR, Title 19, Section 2780.1 (a) [Cal/EPA]</p>	<p>By June 18, 2008, the CUPA will develop a CalARP dispute resolution procedure.</p>
10	<p>The CUPA is not conducting hazardous waste generator inspections with a frequency consistent with their Inspection and Enforcement Program Plan, which is triennial. The Annual Inspection Summary Reports indicate that no hazardous waste generator facility was</p>	<p>By December 31, 2007, the CUPA will develop a strategy and begin implementation of a plan to ensure adherence to the triennial inspection frequency requirement as noted on their</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>inspected in FY 05/06 and FY 06/07. However, the CUPA has shown progress; they inspected at least 16% hazardous waste generator facilities to date for FY 07/08.</p> <p>CCR, Title 27, Section 15200 (a)(3)(A) [Cal/EPA & DTSC]</p>	<p>Inspection and Enforcement Program Plan. Beginning March 20, 2008, the CUPA will submit a status of their progress, including the number of facilities inspected.</p>
11	<p>The CUPA is not implementing their Inspection and Enforcement Program Plan as mandated by law. For example, on one of the nine available files reviewed, the CUPA is not implementing the enforcement process for minor violations that have not been corrected.</p> <p>CCR, Title 27, Section 15200 (f)[DTSC]</p>	<p>Beginning November 30, 2007, the CUPA will implement the enforcement process as outlined in their Inspection and Enforcement Program Plan.</p>
12	<p>The CUPA is not accurately documenting violations on their inspection reports. On the list of inspections provided by the CUPA, one of the nine hazardous waste generator facilities inspected to date had a Class II violation. However, the Summary of Violations included in the actual facility file did not mention the degree of violation.</p> <p>HSC, Chapter 6.5, Section 25185(c)(2)(A) CCR, Title 27, Section 15290 (a)(3) [DTSC]</p>	<p>Beginning November 1, 2007, the CUPA will document all violations on their inspection reports.</p>
13	<p>The CUPA does not issue Permits to Operate to the Underground Storage Tank (UST) facility owners/operators. This is one of the primary requirements for the UST Program, and the basis by which facilities are allowed to operate. The Permit is based on compliance with paperwork submittals, facility operational compliance, etc.</p> <p>HSC, Chapter 6.7, Section 25284(a)(1) [SWRCB]</p>	<p>By March 20, 2008, the CUPA will develop a permit form and permit conditions with all the required elements and provide to the SWRCB for review. By June 18, 2008, the CUPA will collect current application forms and other required permit paperwork from all facilities. The CUPA will determine compliance and issue operating permits for all compliant UST facilities.</p>
14	<p>The CUPA has not approved Monitoring/Response Plans or Plot Plans. These are part of the required paperwork submittals for all UST facilities as part of their monitoring program. They should clearly reflect true conditions at the facility and the CUPA needs to ensure that they are complete and fit the situations at the facility. By approving these plans the CUPA accepts the procedures that are proposed for the facility.</p> <p>CCR, Title 23, Section 2641(g) [SWRCB]</p>	<p>As part of the permitting process (above) the CUPA will review and approve monitoring/response plans and plot plans and provide approval for acceptable monitoring programs. By March 20, 2008, the CUPA will develop a plan/process for approving these items as part of their standard operating procedures.</p>
15	<p>Monitoring/Response and Plot Plans do not have all of the required elements. Some of the plans that were submitted were incomplete and/or did not have all of the required elements.</p> <p>CCR, Title 23, Section 2632 (d)(1), (2) [SWRCB]</p>	<p>As part of the permitting process (above) the CUPA will ensure that the submitted plans have all of the required elements, before approving the plan.</p>

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

CUPA Representative

BARBARA HEINRICH
(Print Name)

Original Signed
(Signature)

Evaluation Team Leader

JENNIFER L. LORENZO
(Print Name)

Original Signed
(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** The CUPA's self-audit reports are written in a very organized, clear, and concise format. Training logs are also well-organized and detailed, indicating all the type of trainings received at conferences offering various courses.

Recommendation: The CUPA is encouraged to continue their great work.

2. **Observation:** The CUPA has reviewed certain sections of their Inspection and Enforcement Program Plan.

Recommendation: Review the Inspection and Enforcement Program Plan in its entirety annually, revise or update as necessary, and note date of review or update.

3. **Observation:** The CUPA's business plan and hazardous waste generator inspection report forms provide a place to note an owner's or facility representative's consent to inspect the facility, but it is not provided on the CalARP or UST inspection checklists.

Recommendation: The CUPA is strongly encouraged to provide a place for consent to inspect on all inspection reports. Documentation of consent serves to strengthen any potential enforcement case defeating any potential challenge that the fourth amendment may have been abridged.

4. **Observation:** In some of the hazardous waste generator Inspection Reports, the Receipt of Report has not been signed by the owner or operator of the facility. Also, some of the checklists are being used inconsistently; sometimes the boxes that indicate presence of a violation are checked, while other times, the boxes are not checked.

Recommendation: The CUPA should verify that the Receipt of Report is signed by the owner/operator of the facility and use the Inspection Report checklists consistently.

5. **Observation:** The CUPA's Inspection Reports do not segregate Class I violations and chronic Class II violations under a Summary of Violations from minor violations under a Notice to Comply.

Recommendation: The CUPA should modify their inspection reports to segregate these elements in order to distinguish between enforcement modes for Class I, Class II, and minor violations and to aid in tracking.

6. **Observation:** The CUPA actively participates and attend monthly fire department meetings and activities and ensures that hazardous materials inventories of regulated facilities are distributed to them. The CUPA also regularly attends the Northern CUPA UST Technical Advisory Group (TAG) meetings in Chico and some of the Bay Area CUPA UST TAG meetings in Sacramento.

Recommendation: The CUPA is encouraged to continue attending the meetings and providing the fire department with business plan inventories.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

- 7. Observation:** During the file review of the business plans, most of the files were complete, but some files were missing the site map. Also, files may contain inventory statements that were incomplete or referred to an attached MSDS which was not included in the file or was difficult to locate.

Recommendation: Ensure that information in business plan files is complete and organized.

- 8. Observation:** The CUPA's office is located in Sacramento and, thus, commute to Trinity County takes more than 4 hours.

Recommendation: Develop alternatives to reduce commute time and distance, so that the time may be used for essential CUPA program implementation. Some examples are: a) lease an office within Trinity County or in an adjoining county and assign an employee to maintain the day-to-day operations for the CUPA, or b) contract with a private consultant, business, or another CUPA to conduct certain functions of the CUPA program, such as facility inspections.

- 9. Observation:** Not all of the UST forms in the files are the current version, and some of the required submittals are either missing or not up-to-date. Some of the forms are not properly filled out or signed.

Recommendation: During the permit issuance process, ensure that all required forms are submitted and reviewed for completeness, signatures, etc. before approving and issuing the Permit-to-Operate.

- 10. Observation:** The CUPA does not have permit/approval procedures for incidental/one-time actions such as installations, modifications, tank permanent closures, temporary closures, amendments to permits, transfer of permits, etc. There needs to be a mechanism by which the requirements/responsibilities are accepted by the owner/operator (permit application) and the proposed activity is reviewed and approved for technical acceptability (permit) and conditions of the permit are established, such as construction inspections for testing, soil sample requirements for removals, etc.

Recommendation: Develop permit/authorization paperwork/applications for permits for completion by the owner/operator for installations, modifications, closures, permit amendments, transfer of permits, etc. which will establish the requirements of the action. Develop a mechanism for accepting the applications and a process for review, approval, and permit issuance. Amend the fee schedule to include fees to cover the cost of plan reviews, permit issuance, and related inspections associated with the action.

- 11. Observation:** The CUPA does not track UST Significant Operational Compliance (SOC) information for Report 6 at the time of the facility inspection.

Recommendation: Institute a process for determining SOC compliance at the time of inspection and track it in a database or spreadsheet for ease in completing Report 6.

- 12. Observation:** On the CUPA's original application, dated November 2004, a total number of 41 regulated businesses were identified: 14 facilities were subject to the UST program, 20 facilities subject to the business plan program, and 31 businesses regulated under the hazardous waste

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

generator program. Since outreach efforts have begun in 2005 and continues to date, the CUPA has identified a total of about 121 business plan facilities, 10 UST facilities, 58 hazardous waste generators, and 5 CalARP facilities. Although the budget and staff allocated to initially implement the CUPA program in Trinity County were insufficient, the CUPA has been able to reduce their deficit with the fees collected from the additional regulated businesses identified.

13. Observation: The CUPA, in coordination with Trinity County Emergency Services, is in the initial process of developing their draft area plan.

Recommendation: Provide a copy of the draft area plan to the Governor's Office of Emergency Services once completed.

14. Observation: The CUPA has one employee, Ms. Barbara Heinrich of DTSC, who, along with occasional help from co-workers, conducts day-to-day operations for all the Unified Program elements. During the first day of the evaluation, the CUPA described their situation in undertaking and achieving their goals. As previously stated, the office is located in Sacramento where it takes over 4 hours drive to Weaverville (County Seat) and additional time to reach actual inspection sites within the county. Considering the situation that the CUPA faces, the CUPA still manages to perform other functions besides inspections. The examples mentioned are education and outreach of remote or nearly unreachable businesses; participating in committee meetings and workshops; attending fire chiefs' meetings; helping businesses complete business plan forms; training and other assistance to the regulated businesses to help achieve compliance.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The Trinity County CUPA's outreach efforts are commendable and remain a priority within their program. With the CUPA's certification in January 2005 under the management and administration of the state agency DTSC, several initial visits to potential regulated businesses were conducted in 2005. The CUPA assisted businesses in filling out various CUPA Forms and the business plans. In May 2006, four one-day classes (Hazardous Waste Compliance School) were held; about 27 people attended. All attendees received a Hazardous Waste Compliance School manual, several DTSC fact sheets, hazardous waste labels, federal Department of Transportation hazard labels, the Auto Repair Pollution Prevention Toolkit and pamphlets, and a certificate upon completion of the class. Outreach to individual businesses continued in FY 06/07. The CUPA secured three free 2-day First Responder Operations (FRO) classes from the LEPC for Trinity County firefighters; these classes are scheduled for FY 07/08. An additional two 2-day FRO classes were obtained from the DTSC Training Coordinator for Trinity County firefighters. One class was held in Trinity Center on November 18 and 19, 2006, and the other class was held in Hayfork on May 5 and 6, 2007.

In a community that has not been regulated for the Unified Program elements aside from UST program, the CUPA has overcome a tremendous hurdle. Safety is also always a major concern for conducting any outreach, visit or inspection, especially in the remote areas of Trinity County. It appears to have been mostly an uphill battle for Trinity County CUPA. However, CUPA staff has been diligent in establishing a relationship with the citizens of Trinity County and continues to do so to this date.

2. Trinity County CUPA maintains great coordination with other agencies within the county and region. The CUPA regularly attends the monthly Trinity County Fire Chief Association (TCFA) meetings in Weaverville. The CUPA attended the Region II Local Emergency Planning Committee (LEPC) meetings. The CUPA also maintains a great relationship with the Trinity County Environmental Health; they have been supportive to the CUPA staff in implementing the Unified Program.

In addition, the CUPA was able to secure the Hazardous Materials Emergency Planning (HMEP) grant for \$20,000 to develop an area plan. The CUPA will work with the Trinity County Director of Emergency Services to develop the draft area plan during FY 07/08.

3. The CUPA has developed an excellent Hazardous Waste Generator Flowchart that is simple, effective and will be very useful to the generators.